

E-Filed 7/7/05

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FAHMI AL HAIKI,

Petitioner,

v.

ALBERTO GONZALES, Attorney General, et al.,

Respondents.

Case Number C-04-5346-JF

ORDER TRANSFERRING ACTION
TO THE NINTH CIRCUIT AS A
PETITION FOR REVIEW

On December 17, 2004, Petitioner filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking review of the determination that his asylum application was untimely as well as a stay of removal pending disposition of the petition. On March 9, 2005, this Court issued an order denying the petition with respect to Petitioner's claim that his asylum application was timely and requesting further briefing with respect to this Court's jurisdiction to address Petitioner's facial challenge to the statutory one-year deadline for filing an application for asylum. The Court denied Petitioner's request for stay of removal. After the parties filed the requested supplemental briefing and while the remainder of the petition was pending before this Court, the REAL ID Act of 2005, Pub.L. No. 109-13, 119 Stat. 231 (2005) became effective. The Court concludes that it no longer has jurisdiction over the action pursuant to this Act and

1 that the action should be transferred to the Ninth Circuit as a petition for review. The parties
2 have stipulated to transfer of the action to the Ninth Circuit.

3 Accordingly, IT IS HEREBY ORDERED that the entire file in this action be transferred
4 to the Ninth Circuit as a Petition for Review. The Clerk of the Court shall close this Court's case
5 file.

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7 DATED: 7/7/05

8 /s/ electronic signature authorized

9 JEREMY FOGEL
10 United States District Judge
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1 Copies of Order served on:

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3 Alison E. Daw alison.daw@usdoj.gov

4 Jeffrey Gregg Martins martinslaw@sbcglobal.net,
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